

applicants from the disadvantages posed by protracted delay. IBC also applauds the Commission for recognizing the need for automatic forfeiture of a construction permit upon expiration, and for proposing more rigorous criteria for permit extension or reinstatement.

IBC's staff engineers have observed in recent years that a significant number of unbuilt construction permits have clogged the spectrum, particularly in the AM band. Permittees don't build, but still secure seemingly endless extensions, often on the flimsiest of grounds. One AM operator has limped-along a new nighttime authorization for more than a decade. Such protracted delay often limits other broadcasters from initiating major improvements or forces them to protect from interference phantom facilities which may never exist. The hoarding of spectrum impedes the public interest.

In all fairness to current holders of permits and their extensions, any revised Commission standard should allow those permittees reasonable time to implement their outstanding authorizations. Three-year terms should be extended to all existing permittees; and those near the expiration of their permit or extension should, perhaps, be given a one-year, one-time grace period to put facilities in place. Further extensions would only be permitted under the revised, tougher criteria.

IBC shares the Commission's concern that in certain, isolated instances, construction permits and their extensions may have been secured by insincere applicants for the purpose of "spectrum warehousing," for example, to prevent a new competitor from entering the permittee's market. We worry this practice may increase with the advent of spectrum auctions under which an incumbent broadcaster would pay the highest bid just to keep out others. The Commission should establish procedures to severely sanction such activity and strictly scrutinize extension requests in cases where little or no construction has been done.

The Commission proposes that "acts of God" or other similar circumstances beyond a permittee's control continue to qualify a permittee for short-term extensions. However, the Commission tentatively concludes that delays in obtaining zoning approval no longer serve as ample justification in extension requests. The Commission posits that,

*"...zoning delays can be overcome and construction can be completed within the proposed three-year construction period if a permittee pursues the zoning process diligently."*

IBC counters that a three year "drop-dead" construction limit will not be overlooked by hostile municipalities, citizens groups, or their attorneys. Opponents will utilize every means of administrative delay or litigation to "run out the clock" on a broadcast applicant, trusting once a construction permit is canceled, it will never resurface. And even should zoning delays consume only a year or two of the construction period, the permittee might be hard pressed to complete all other aspects of station construction prior to permit expiration. IBC maintains the Commission should rethink its tentative conclusions and retain zoning obstacles, properly documented, as legitimate grounds for permit extension.

Finally, IBC urges the Commission allow legitimate extension opportunities for directional AM broadcasters whose facilities may be built, though not finally tuned, by the construction permit's scheduled expiration. Directional AM antenna adjustment can prove a frustrating task, demanding an open-ended time commitment. Hasty, slipshod tuning and measurement to meet an arbitrary deadline would serve neither the public interest nor that of other broadcasters potentially impacted by interference. Given sufficient documentation, IBC supports continued reasonable extensions for this limited group of broadcast permittees.

### CONCLUSION

In this NPRM, the Commission asserts its belief that its proposed rule modifications, particularly to Form 301, will make filings simpler and less burdensome. It further states,

*"...we believe that adoption of these changes would not jeopardize the technical integrity of the broadcast services or the consistent enforcement of our core rules and policies."*

IBC respectfully disagrees. While our engineers generally applaud common-sense deregulation, we also appreciate the protections which intelligently-crafted technical rules provide our client stations and the listening public. And unless Commission staff remain fully aware of an applicant's documented intentions, the agency operates in the dark. Increased reliance upon applicant certifications, as opposed to hard evidence, would only degrade the broadcast landscape and compromise the integrity of the Rules. Experience teaches us that when the Commission gives an inch, the unscrupulous take a mile.

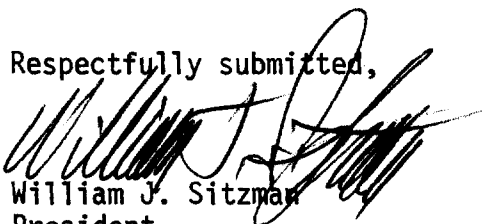
IBC does not oppose the benefits obtained from computer technology. Recently implemented e-mail capability between our office and the Commission's offices and field bureaus enables us to answer questions and resolve problems quickly and effectively. Computer programs utilized in-house or available through subcontractors speed calculations and improve our design of AM antenna patterns and the tuning of AM arrays. But while the computer is an indispensable tool, it is not a substitute for human oversight and sound judgment. IBC fears the simplifications and procedural changes embodied in this NPRM would cede too many decisions to the computer and institute an unfortunate, perhaps dangerous, policy of "cookie cutter" uniformity to the broadcast application process.

Moreover, we sense the immediate impact of the Commission's electronic filing initiative will hit hardest the smaller, less capitalized broadcaster, broadcast applicant, or consultant. APPENDIX A of this NPRM

calculates that an estimated 96 per cent of radio stations authorized in this nation qualify as small businesses. While not all of this percentage may encounter severe financial and technological difficulties meeting the Commission's call for electronic filing, it's safe to say many, probably a majority, will find such filing an increased burden. From our standpoint as a technical consultant, we believe the Commission's initiative would make our job, and that of most clients, more difficult.

Sometimes, the tried and true simply works best. IBC encourages the Commission to research new and better ways modern technology can serve the public. But we fear the instant initiative toward wholesale, presumably mandatory, electronic filing, coupled with revisions which would "dumb down" application forms and significantly reduce applicant submissions, has been hastily conceived and not accorded sufficient study. IBC trusts other parties commenting in this proceeding will concur in its view and offer insights our staff may have overlooked. We encourage the Commission solicit additional comments if necessary; and provide all comments thoughtful review. And we challenge the agency to subordinate its own economies and convenience to the public interest as it develops final procedures, processes and rules.

Respectfully submitted,



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